

Public Health Service, HHS

§ 137.265

led to the findings described under (a); and

(d) Provide the Self-Governance Tribe with a hearing on the record as provided under Subpart P of this part.

§ 137.258 Does the Self-Governance Tribe have a right to a hearing prior to a non-immediate reassumption becoming effective?

Yes, at the Self-Governance Tribe's request, the Secretary must provide a hearing on the record prior to or in lieu of the corrective action period identified in § 137.257(b).

§ 137.259 What happens if the Secretary determines that the Self-Governance Tribe has not corrected the conditions that the Secretary identified in the notice?

(a) The Secretary shall provide a second written notice by certified mail to the Self-Governance Tribe served by the compact or funding agreement that the compact or funding agreement will be rescinded, in whole or in part.

(b) The second notice shall include:

(1) The intended effective date of the reassumption;

(2) The details and facts supporting the intended reassumption; and

(3) Instructions that explain the Indian Tribe's right to a formal hearing within 30 days of receipt of the notice.

§ 137.260 What is the earliest date on which a reassumption can be effective?

Except as provided in § 137.261, no PSFA may be reassumed by the Secretary until 30 days after the final resolution of the hearing and any subsequent appeals to provide the Self-Governance Tribe with an opportunity to take corrective action in response to any adverse final ruling.

§ 137.261 Does the Secretary have the authority to immediately reassume a PSFA?

Yes, the Secretary may immediately reassume operation of a program, service, function, or activity (or portion thereof) and associated funding upon providing to the Self-Governance Tribe written notice in which the Secretary makes a finding:

(a) of imminent substantial and irreparable endangerment of the public

health caused by an act or omission of the Indian Tribe; and

(b) the endangerment arises out of a failure to carry out the compact or funding agreement.

§ 137.262 If the Secretary reassumes a PSFA immediately, when must the Secretary provide the Self-Governance Tribe with a hearing?

If the Secretary immediately reassumes a PSFA, the Secretary must provide the Self-Governance Tribe with a hearing under Subpart P of this part not later than 10 days after such reassumption, unless the Self-Governance Tribe and the Secretary agree to an extension.

§ 137.263 May the Secretary provide a grant to a Self-Governance Tribe for technical assistance to overcome conditions identified under § 137.257?

Yes, the Secretary may make a grant for the purpose of obtaining technical assistance as provided in section 103 of the Act [25 U.S.C. 458aaa-h].

§ 137.264 To what extent may the Secretary require the Self-Governance Tribe to return property that was provided by the Secretary under the compact or funding agreement and used in the operation of the reassumed program?

On the effective date of any reassumption, the Self-Governance Tribe, shall, at the option of the Secretary and only to the extent requested by the Secretary, deliver to the Secretary property and equipment provided by the Secretary under the compact or funding agreement, to the extent the property was used to directly carry out the reassumed program, service, function, or activity (or portion thereof), provided that at the time of reassumption the property has a per item current fair market value, less the cost of improvements borne by the Self-Governance Tribe, in excess of \$5,000 at the time of the reassumption.

§ 137.265 May a Tribe be reimbursed for actual and reasonable close out costs incurred after the effective date of reassumption?

Yes, a Tribe may be reimbursed for actual and reasonable close out costs